



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

REGION 2  
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NEW YORK, NY 10007-1866

MAR 31 2008

Mr. John Wilkins  
The New Jersey Transit Corporation  
One Penn Plaza East  
Newark, New Jersey 07105

Dear Mr. Wilkins:

The U.S. Environmental Protection Agency (EPA) has reviewed the Federal Railroad Administration's (FRA) draft environmental impact statement (DEIS) for the Portal Bridge Capacity Enhancement (CEQ # 20080050). The proposed project would enhance the capacity and improve the operation of the Portal Bridge, a rail crossing over the Hackensack River in Hudson County, New Jersey. This review was conducted in accordance with Section 309 of the Clean Air Act, 42 U.S.C. 7609, and Section 102(2)(C) of the National Environmental Policy Act (NEPA), 42 U.S.C. 4332(2)(C).

The existing Portal Bridge is a two-track, moveable swing-span bridge that was constructed by the Pennsylvania Railroad and began operation in 1910. It is a critical infrastructure element for Amtrak and New Jersey (NJ) Transit on the Northeast Corridor. The DEIS examines four build alternatives in addition to the "no build" scenario. The build alternatives involve two new bridges to replace the existing bridge and differ primarily with respect to the location of the southern bridge and the type of grade-separated crossing, either track fly-over or duck-under, included to improve railroad operations. However, the DEIS does not indicate a preferred alternative.

In general, EPA is supportive of public transportation projects because of their potential to improve air quality, reduce congestion, and provide opportunities for energy efficiency. Nevertheless, we note throughout the DEIS, the FRA has stated that NJ Transit and Amtrak will coordinate with stakeholders to determine appropriate mitigation after a preferred alternative is selected and "once engineering design has sufficiently progressed." However, it is a requirement of the National Environmental Policy Act (40 CFR 1502.16(h)) that the NEPA document include a discussion of the "means to mitigate adverse environmental impacts." Accordingly, mitigation plans for impacts to wetlands, benthic habitat, historic/cultural areas or structures, open space, and noise must be included in the final environmental impact statement (FEIS).

EPA's technical comments on the DEIS are as follows:

### Air Quality

1) The Portal Bridge DEIS concludes that the general conformity de minimis thresholds are not exceeded during the construction phase of the project; however, it does not provide any supporting information. In a January 10, 2008, response to previous EPA comments, FRA indicated that estimates were based on emissions per dollar value of construction using three Lower Manhattan recovery projects as models. EPA has the following comments with respect to general conformity:

- a) Once the preferred alternative is selected, a general conformity applicability analysis and subsequent conformity determination, if warranted, must be conducted.
- b) We do not agree with the use of dollar value of construction as a surrogate for emissions for a project of this size, cost, and construction duration. In addition, the Lower Manhattan recovery projects all incorporated specific clean diesel commitments to reduce emissions, and those commitments do not appear to have been included as mitigation strategies for the Portal Bridge project.
- c) We anticipate a substantially different mix of non-road equipment will be used during the construction phase of the Portal Bridge project from that which was used in Lower Manhattan. Specifically, the DEIS states that material delivery and disposal, and construction of the bridge piers will be accomplished using barges, and we expect there would be at least one tug in operation. Delivery of other materials along with track and overhead wire work would be accomplished using trains. The Lower Manhattan projects did not utilize such marine and locomotive engines; therefore a project-specific, detailed emissions inventory should be completed for the Portal Bridge preferred alternative construction phase as the basis for a general conformity applicability determination.
- d) Sulfur dioxide (SO<sub>2</sub>) is a PM<sub>2.5</sub> precursor and must also be addressed in the general conformity determination.

2) The discussion of EPA's "Clean Air Non-Road Diesel Rule" on page 6-16 implies that the rule would require after-market retrofits of Tier 2 non-road engines. This is not true for Tier 2-certified engines. However, FRA can ensure that the cleanest diesel engines are used during construction by adopting clean diesel practices as air quality mitigation measures and enforcing those measures through its construction contracts. For example, measures could include a requirement that the cleanest engines be used on non-road construction equipment (Tier 4 engines may be available during the project's construction phase), use of best available retrofit technology for older engines, a site-wide idling minimization plan, or site electrification to reduce the use of diesel-powered



generators. We note that while the project site is not adjacent to residences, where localized impacts would be of greatest concern, it is close to Laurel Hill Park, where children may be exposed to increased concentrations of particulate matter and air toxics for the duration of the project's construction.

### Wetlands

1) As stated earlier, no preferred alternative has been identified in the DEIS. In order to satisfy the Clean Water Act Section 404 requirements, the FEIS will need to identify a preferred alternative. If the preferred alternative has greater wetlands impacts than other practicable alternatives, the FEIS must explain why alternatives having fewer impacts were not selected. In addition, the FEIS will need to identify, map, and quantify acreages of each type of wetland that are proposed to be permanently impacted, temporarily impacted, fragmented or permanently shaded.

2) EPA is also concerned by the statement, "the ARC project was considered in the development of the feasible Portal Bridge build alternatives and is considered for its potential to cause cumulative effects." The FEIS should explain how this affects the acreage of wetlands impacted by the project. While earlier reports recommended two bridges with two tracks each, as a replacement for the existing Portal Bridge, the build alternatives in the DEIS recommend two bridges, including one with three tracks. The FEIS must demonstrate the necessity of the third track due to rail volume or safety reasons.

3) In Chapter 5.6, E., the term "regulated wetland buffer" should be defined.

### Green Acres

As stated in the DEIS, approximately 2 acres of Laurel Hill Park will have to be acquired as part of all of the build alternatives. In order to divert Green Acres parkland or open space, the property owner (in this case Hudson County) must submit an application for approval from the Commissioner of the New Jersey Department of Environmental Protection and the State House Commission. The diversion process and a mitigation plan for the loss of this property as open space should be described in the FEIS, and compared to the estimated construction start time.

### Noise

All four build alternatives would have moderate and severe noise impacts on the expanded Laurel Hill Park. The areas of moderate and severe noise impact should be visually represented on a map of the area to provide for a greater understanding of the impacts. Also, the DEIS does not discuss the possible impacts of increased noise on the fauna of the area. Furthermore, noise should also be analyzed under the cumulative impacts section of the document and include the increase in train traffic expected with the Access to the Region's Core project. Any mitigation for these impacts should be included in the FEIS.

### Cumulative Impacts

The cumulative impacts section of the DEIS should quantify all known and reasonably foreseeable impacts to the wetlands in the Hackensack Meadowlands. While the DEIS lists some of the expected projects in the Meadowlands, none of the wetland impacts from these projects are quantified. Moreover, the DEIS should quantify expected wetlands losses from other transportation projects, such as the Teterboro Airport Runway Safety project.

Based upon our review, we are rating each of the four build alternatives as EC-2 (Environmental Concerns - Insufficient Information, see enclosed), due to the lack of a General Conformity analysis and mitigation plans, especially one to address impacts to wetlands.

Thank you for the opportunity to comment on the DEIS. If you have any questions, please call Lingard Knutson of my staff at (212) 637-3747.

Sincerely yours,



John Filippelli, Chief  
Strategic Planning Multi-Media Programs Branch

Enclosure

cc: D. Valenstein, USDOT-FRA



## SUMMARY OF RATING DEFINITIONS AND FOLLOW-UP ACTION

### Environmental Impact of the Action

#### LO-Lack of Objections

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

#### EC-Environmental Concerns

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact. EPA would like to work with the lead agency to reduce these impacts.

#### EO-Environmental Objections

The EPA review has identified significant environmental impacts that must be avoided to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

#### EU-Environmentally Unsatisfactory

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of environmental quality, public health or welfare. EPA intends to work with the lead agency to reduce these impacts. If the potential unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommend for referral to the Council on Environmental Quality (CEQ).

### Adequacy of the Impact Statement

#### Category 1-Adequate

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

#### Category 2-Insufficient Information

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

#### Category 3-Inadequate

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analysis, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

\*From: EPA Manual 1640, "Policy and Procedures for the Review of Federal Actions Impacting the Environment."